

MINUTE ITEM
This Calendar Item No. 73
was approved as Minute Item
No. 73 by the State Lands
Commission by a vote of 3
0 at its 8-22-90
meeting.

CALENDAR ITEM

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08/22/90

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PRC 6015

A. Scott

AMENDMENT OF COMMERCIAL LEASE PRC 6015 AND
AUTHORIZATION FOR A CONSENT TO ENCUMBER AGREEMENT

APPLICANT: River View Marina, a Limited Partnership
c/o Edmund J. Coyne
901 Tamalpais Avenue, Suite 200
San Rafael, California 94901

SECURED PARTY LENDER:
Marin Community Bank
1248 5th Avenue
San Rafael, California 94901

Bank of Marin
47-E Tamal Vista Boulevard
Corte Madera, California 94925

Tracy Savings and Loan
4241 Florin Road
Sacramento, California 95823

Sunrise Bank of California
2865 Sunrise Boulevard
Rancho Cordova, California 95742

Bank of San Francisco
550 Montgomery Street
San Francisco, California 94111

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AREA, TYPE LAND AND LOCATION:

A 3.86-acre parcel of tide and submerged land, located in the Sacramento River and in the City of Sacramento, Sacramento County.

LAND USE: Commercial Marina.

TERMS OF ORIGINAL LEASE:

Initial period: 30 years beginning January 1, 1981.

Surety bond: \$5,000.

Public liability insurance: Combined single limit coverage of \$1,000,000.

Consideration: \$3,500 per annum; or a percentage of the gross income, which ever is greater.

BACKGROUND:

The applicant is negotiating with several lenders for funds to refinance the subject marina. The applicant has asked for Commission approval of three primary lenders as parties to a standard Agreement and Consent to Encumber Lease form. As part of the applicants negotiations with lenders, he has been advised that the remaining term of the existing lease must be extended to a term of thirty-two (32) years (seven years beyond the 25-year authorization period). Staff recommends the approval of such an extension provided that the State is compensated for the loss in rent as a result of the lessee retaining sole ownership and control of the leasehold improvements for the additional period of time beyond the original term of the lease. Applicant has agreed to pay additional monies to the State upon lender's funding of the proposed loan.

CURRENT SITUATION:

The staff has calculated the potential loss in revenue due the State for the time marina's operation over the twelve years needed to extend the existing lease so that the lease will have a thirty-two (32) year term. The amount has been estimated in today's dollars to be approximately \$25,000. The applicant has agreed to pay this amount to the Commission upon the funding of the proposed loan. The proposed extension of the lease term is contingent on the payment of that amount to the State.

AG 884: N/A.

OTHER PERTINENT INFORMATION:

1. With regard to the amendment, pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities, 2 Cal. Code Regs 2905(a)(2).

Authority: P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

2. With regard to the encumbrance, pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

EXHIBITS: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. WITH REGARD TO THE AMENDMENT, FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 2 CAL. CODE REGS. 2905(a)(2).
2. WITH REGARD TO THE APPROVAL OF THIS ENCUMBRANCE, FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
3. AUTHORIZE EXECUTION OF THE AGREEMENT AND CONSENT TO ENCUMBRANCING OF LESSEE'S RIGHT, TITLE AND INTEREST IN THE COMMISSION'S LEASE NO. 6015 IN FAVOR OF ONE OR MORE OF THE FOLLOWING LENDERS: MARIN COMMUNITY BANK, BANK OF MARIN, TRACY SAVINGS AND LOAN, SUNRISE BANK OF CALIFORNIA, OR BANK

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OF SAN FRANCISCO, FOR PURPOSES OF REFINANCING THE MARINA IMPROVEMENTS AND AUTHORIZE THE EXECUTIVE OFFICER OR A DESIGNEE THEREOF TO PROVIDE ALL FURTHER STATE APPROVALS OR DISAPPROVALS UNDER THE ENCUMBRANCING AGREEMENT.

4. AUTHORIZE, CONTINGENT ON THE RECEIPT OF COMPENSATION IN THE AMOUNT OF \$25,000, THE EXECUTION ON BEHALF OF THE COMMISSION OF THE AMENDMENT TO LEASE PRC 6015 AS SPECIFIED HEREIN.

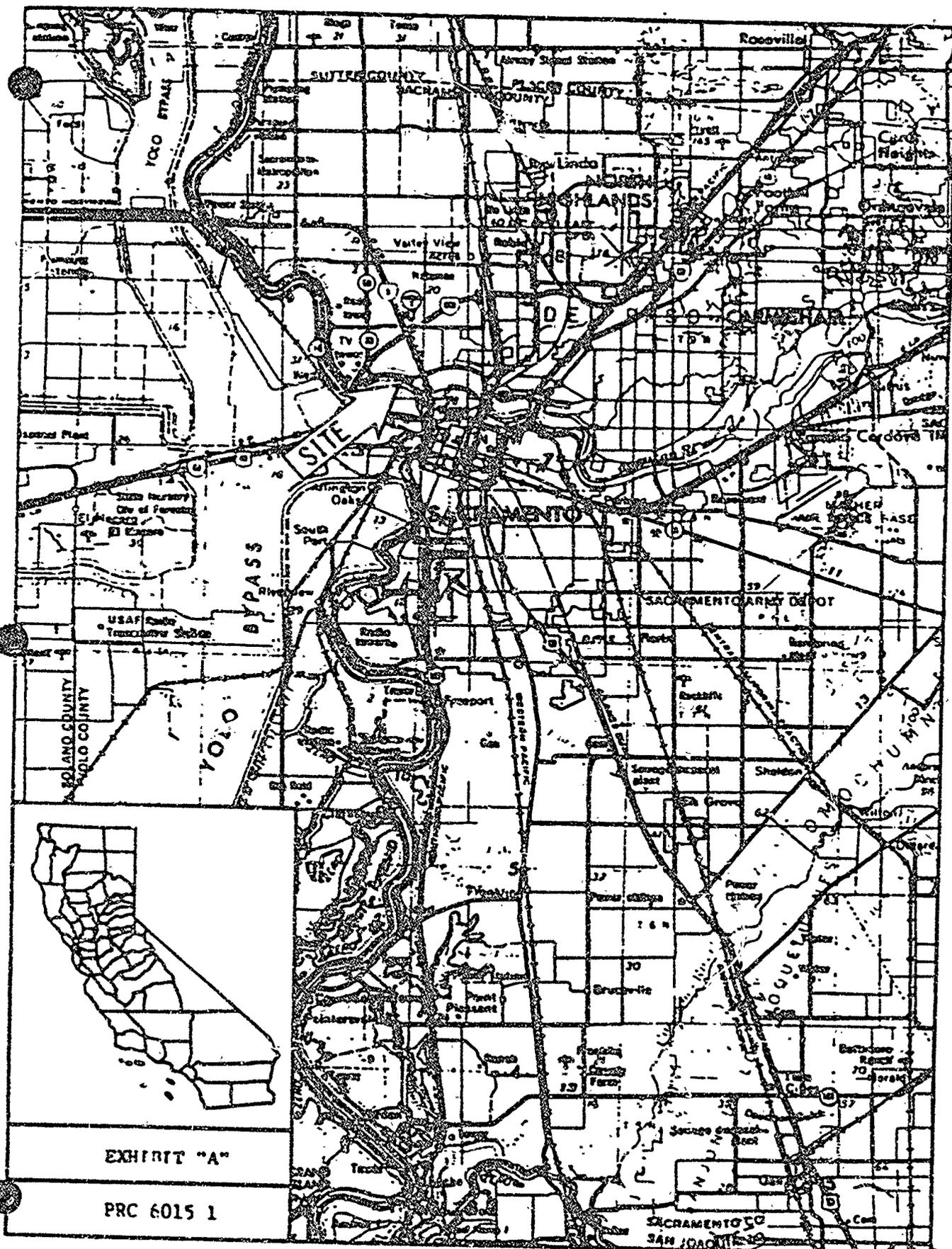


EXHIBIT "A"

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